

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BERENICE L. FARMER and DEPARTMENT OF COMMERCE,  
BUREAU OF THE CENSUS, Detroit, MI

*Docket No. 01-2058; Submitted on the Record;  
Issued September 23, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on August 22, 1999 causally related to her April 7, 1999 employment injury.

The Board finds that this case is not in posture for a decision.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.<sup>1</sup> This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.<sup>2</sup>

On April 7, 1999 appellant, then a 70-year-old census worker, sustained a left ankle sprain and aggravation of degenerative disc disease in the performance of duty when she slipped on uneven pavement and fell. She was terminated by the employing establishment on April 19, 1999 due to lack of work. Appellant was released by her physician for sedentary work as of April 23, 1999 with a complaint of foot and ankle swelling.

On November 20, 1999 appellant filed a claim for compensation benefits beginning on August 22, 1999.

By decision dated November 21, 2000, the Office of Workers' Compensation Programs denied appellant's claim for a recurrence of disability on August 22, 1999.

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<sup>1</sup> See *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

<sup>2</sup> See *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

By letter dated December 8, 2000, appellant requested a hearing that was held on May 21, 2001.

By decision dated July 24, 2001 and finalized July 25, 2001, an Office hearing representative affirmed the Office's November 21, 2000 decision.

In a form report dated November 17, 1999, Dr. Linda K. Stanley, appellant's attending family practitioner, provided a history of appellant's ankle injury on April 7, 1999. She noted that appellant was seen on June 30, 1999 "for other problems related to her multiple medical problems, as well as increasing back pain." Dr. Stanley diagnosed an ankle sprain and exacerbation of back pain "due to previous DDD [degenerative disc disease]/OA [osteoarthritis]/herniated disc." She indicated that the April 7, 1999 employment injury caused appellant's ankle sprain and aggravated her back pain. Dr. Stanley stated that, "Due to severity of degenerative disease of the low back which has been aggravated by this fall, it is unlikely [appellant] will be able to ever return to active work."

In a narrative report dated September 20, 1999, Dr. Stanley provided a history of appellant's condition and noted that she was seen on June 30, 1999 for several medical problems as well as increasing back pain. On August 4, 1999 appellant was seen again, primarily for back pain. Dr. Stanley noted that appellant had a long history of back problems including severe degenerative disc disease, osteoarthritis and a small herniated disc and appellant felt that her April 7, 1999 employment injury had exacerbated her preexisting back pain.

In a form report dated November 17, 1999, Dr. Stanley diagnosed a left ankle sprain and exacerbation of back pain due to previous degenerative disc disease, osteoarthritis and a herniated disc. She indicated that the April 7, 1999 employment injury caused the left ankle problem and aggravated the preexisting back conditions.

In a report dated May 15, 2001, Dr. Stanley stated that following the April 7, 1999 employment injury appellant's back pain and sciatic pain worsened. She stated that appellant's pain medication for her ankle sprain may have masked the extent of her back pain.

Although Dr. Stanley failed to provide sufficient medical rationale in support of her opinion that appellant's condition was causally related to her April 7, 1999 employment injury, her reports constitute substantial uncontroverted evidence in support of appellant's claim and are sufficient to require that the case be remanded for further development of the claim.<sup>3</sup>

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<sup>3</sup> See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

The decisions of the Office of Workers' Compensation Programs dated July 25, 2001 and November 21, 2000 are set aside and the case is remanded for further action consistent with this decision.

Dated, Washington, DC  
September 23, 2002

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member